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motor vehicle for the convictions described in § 383.51. Notifications shall be made within the time periods specified in § 383.33.

(f) If a State uses the alternative method described in § 383.73(i) to achieve the objectives of the certifications in § 383.71(a), then the driver applicant shall satisfy such alternative methods as are applicable to him/her with respect to initial licensing, license transfer, license renewal, and license upgrades.

(g) *Existing CDL holder's self-certification.* Every person who holds a CDL must provide to the State on or after January 30, 2012, but not later than January 30, 2014 the certification contained in § 383.71(a)(1)(ii).

(h) *Medical certification documentation required by the State.* An applicant or CDL holder who certifies to non-excepted, interstate driving operations according to § 383.71(a)(1)(ii)(A) must comply with applicable requirements in paragraphs (h)(1) through (3) of this section:

(1) *New CDL applicants.* After January 30, 2012, a new CDL applicant who certifies that he or she will operate CMVs in non-excepted, interstate commerce must provide the State with an original or copy (as required by the State) of a medical examiner's certificate prepared by a medical examiner, as defined in § 390.5 of this chapter, and the State will post a certification status of "certified" on the Commercial Driver's License Information System (CDLIS) driver record for the driver;

(2) *Existing CDL holders.* By January 30, 2014, provide the State with an original or copy (as required by the State) of a current medical examiner's certificate prepared by a medical examiner, as defined in 49 CFR 390.5, and the State will post a certification status of "certified" on CDLIS driver record for the driver. If the non-excepted, interstate CDL holder fails to provide the State with a current medical examiner's certificate, the State will post a certification status of "not-certified" in the CDLIS driver record for the driver, and initiate a CDL downgrade following State procedures in accordance with section 383.73(j)(4); and

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(3) *Maintaining the medical certification status of "certified."* In order to maintain a medical certification status of "certified," after January 30, 2012, a CDL holder who certifies that he or she will operate CMVs in non-excepted, interstate commerce must provide the State with an original or copy (as required by the State) of each subsequently issued medical examiner's certificate.

[53 FR 27649, July 21, 1988, as amended at 67 FR 49759, July 31, 2002; 68 FR 23849, May 5, 2003; 73 FR 73123, Dec. 1, 2008]

§ 383.72 Implied consent to alcohol testing.

Any person who holds a CDL is considered to have consented to such testing as is required by any State or jurisdiction in the enforcement of §§ 383.51(b)(2)(i) and 392.5(a)(2) of this chapter. Consent is implied by driving a commercial motor vehicle.

[66 FR 49872, Oct. 1, 2001]

§ 383.73 State procedures.

(a) *Initial licensure.* Prior to issuing a CDL to a person, a State shall:

(1) Require the driver applicant to certify, pass tests, and provide information as described in §§ 383.71(a) (1) through (6);

(2) Check that the vehicle in which the applicant takes his/her test is representative of the vehicle group the applicant has certified that he/she operates or expects to operate;

(3) Initiate and complete a check of the applicant's driving record to ensure that the person is not subject to any disqualification under § 383.51, or any license suspension, revocation, or cancellation under State law, and that the person does not have a driver's license from more than one State or jurisdiction. The record check must include, but is not limited to, the following:

(i) A check of the applicant's driving record as maintained by his/her current State of licensure, if any;

(ii) A check with the CDLIS to determine whether the driver applicant already has been issued a CDL, whether the applicant's license has been suspended, revoked, or canceled, or if the applicant has been disqualified from operating a commercial motor vehicle;

(iii) A check with the National Driver Register (NDR) to determine whether the driver applicant has:

(A) Been disqualified from operating a motor vehicle (other than a commercial motor vehicle);

(B) Had a license (other than CDL) suspended, revoked, or canceled for cause in the 3-year period ending on the date of application; or

(C) Been convicted of any offenses contained in section 205(a)(3) of the National Driver Register Act of 1982 (23 U.S.C. 401 note); and

(iv) A request for the applicant's complete driving record from all States where the applicant was previously licensed over the last 10 years to drive any type of motor vehicle. *Exception:* A State is only required to make the driving record check specified in this paragraph (a)(3) for drivers renewing a CDL for the first time after September 30, 2002, provided a notation is made on the driver's record confirming that the driver record check required by this paragraph (a)(3) has been made and noting the date it was done; and

(v) Beginning January 30, 2012, a check that the medical certification status of a driver that self-certified according to § 383.71(a)(1)(ii)(A) (non-excepted interstate) is "certified;"

(4) Require the driver applicant to surrender his/her driver's license issued by another State, if he/she has moved from another State.

(5) Beginning January 30, 2012, for drivers who certified their type of driving according to § 383.71(a)(1)(ii)(A) (non-excepted interstate) and, if the CDL driver submits a current medical examiner's certificate, provide the driver with a receipt, which is a date-stamped original or copy of the medical examiner's certificate, and post all required information from the medical examiner's certificate to the CDLIS driver record in accordance with paragraph (j) of this section.

(6) For persons applying for a hazardous materials endorsement, require compliance with the standards for such endorsement specified in § 383.71(a)(9).

(b) *License transfers.* Prior to issuing a CDL to a person who has a CDL from another State, a State shall:

(1) Require the driver applicant to make the certifications contained in § 383.71(a);

(2) Complete a check of the driver applicant's record as contained in § 383.73(a)(3);

(3) Request and receive updates of information specified in subpart J of this part;

(4) If such applicant wishes to retain a hazardous materials endorsement, require compliance with standards for such endorsement specified in § 383.71(a)(9) and ensure that the driver has, within the 2 years preceding the transfer, either:

(i) Passed the test for such endorsement specified in § 383.121; or

(ii) Successfully completed a hazardous materials test or training that is given by a third party and that is deemed by the State to substantially cover the same knowledge base as that described in § 383.121;

(5) Obtain the CDL issued by the applicant's previous State of domicile; and

(6)(i) Beginning January 30, 2012, verify from the CDLIS driver record that the medical certification status of driver is "certified" for those who certified according to § 383.71(a)(1)(ii)(A).

(ii) *Exception.* A driver who certified according to § 383.71(a)(1)(ii)(A) that he or she plans to operate in non-excepted interstate commerce may present a current medical examiner's certificate issued prior to January 30, 2012. The medical examiner's certificate provided by the driver must be posted to the CDLIS driver record in accordance with paragraph (j) of this section.

(c) *License renewals.* Prior to renewing any CDL a State shall:

(1) Require the driver applicant to make the certifications contained in § 383.71(a);

(2) Complete a check of the driver applicant's record as contained in § 383.73(a)(3);

(3) Request and receive updates of information specified in subpart J of this part;

(4) If such applicant wishes to retain a hazardous materials endorsement, require the driver to pass the test specified in § 383.121 and comply with the

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standards specified in § 383.71(a)(9) for such endorsement; and

(5)(i) Beginning January 30, 2012, verify from the CDLIS driver record that the medical certification status is “certified” for drivers who self-certified according to § 383.71(a)(1)(ii)(A).

(ii) *Exception.* A driver who certified according to § 383.71(a)(1)(ii)(A) may present a current medical examiner’s certificate issued prior to January 30, 2012. The medical examiner’s certificate provided by the driver must be posted to the CDLIS driver record in accordance with paragraph (j) of this section.

(d) *License upgrades.* Prior to issuing an upgrade of a CDL, a State shall:

(1) Require such driver applicant to provide certifications, pass tests, and meet applicable hazardous materials standards specified in § 383.71(d);

(2) Complete a check of the driver applicant’s record as described in § 383.73(a)(3); and

(3)(i) Beginning January 30, 2012, verify from the CDLIS driver record that the medical certification status is “certified” for drivers who self-certified according to § 383.71(a)(1)(ii)(A).

(ii) *Exception.* A driver who certified according to § 383.71(a)(1)(ii)(A) may present a current medical examiner’s certificate issued prior to January 30, 2012. The medical examiner’s certificate provided by the driver must be posted to the CDLIS driver record in accordance with paragraph (j) of this section.

(e) *Nonresident CDL.* A State may issue a Nonresident CDL to a person domiciled in a foreign country if the Administrator has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction of domicile do not meet the standards contained in this part. State procedures for the issuance of a nonresident CDL, for any modifications thereto, and for notifications to the CDLIS shall at a minimum be identical to those pertaining to any other CDL, with the following exceptions:

(1) If the applicant is requesting a transfer of his/her Nonresident CDL, the State shall obtain the Nonresident CDL currently held by the applicant and issued by another State;

(2) The State shall add the word “Nonresident” to the face of the CDL, in accordance with § 383.153(b); and

(3) The State shall have established, prior to issuing any Nonresident CDL, the practical capability of disqualifying the holder of any Nonresident CDL, by withdrawing, suspending, canceling, and revoking his/her Nonresident CDL as if the Nonresident CDL were a CDL issued to a resident of the State.

(f) *License issuance.* After the State has completed the procedures described in § 383.73 (a), (b), (c), (d) or (e), it may issue a CDL to the driver applicant. The State shall notify the operator of the CDLIS of such issuance, transfer, renewal, or upgrade within the 10-day period beginning on the date of license issuance.

(g) *Penalties for false information.* If a State determines, in its check of an applicant’s license status and record prior to issuing a CDL, or at any time after the CDL is issued, that the applicant has falsified information contained in subpart J of this part or any of the certifications required in § 383.71(a), the State shall at a minimum suspend, cancel, or revoke the person’s CDL or his/her pending application, or disqualify the person from operating a commercial motor vehicle for a period of at least 60 consecutive days.

(h) *Reciprocity.* A State shall allow any person who has a valid CDL which is not suspended, revoked, or canceled, and who is not disqualified from operating a commercial motor vehicle, to operate a commercial motor vehicle in the State.

(i) *Alternative procedures.* A State may implement alternative procedures to the certification requirements of § 383.71(a) (1), (4), and (6), provided those procedures ensure that the driver meets the requirements of those paragraphs.

(j) *Medical recordkeeping—(1) Status of CDL Holder.* Beginning January 30, 2012, for each operator of a commercial motor vehicle required to have a commercial driver’s license, the current licensing State must:

(i) Post the driver’s self-certification of type of driving under § 383.71(a)(1)(ii),

(ii) Retain the original or a copy of the medical certificate of any driver required to provide documentation of physical qualification for 3 years beyond the date the certificate was issued, and

(iii) Post the information from the medical examiner's certificate within 10 business days to the CDLIS driver record, including:

(A) Medical examiner's name;

(B) Medical examiner's telephone number;

(C) Date of medical examiner's certificate issuance;

(D) Medical examiner's license or certificate number and the State that issued it;

(E) Medical examiner's National Registry identification number (if the National Registry of Medical Examiners, mandated by 49 U.S.C. 31149(d), requires one);

(F) The indicator of medical certification status, i.e., "certified" or "not-certified";

(G) Expiration date of the medical examiner's certificate;

(H) Existence of any medical variance on the medical certificate, such as an exemption, Skill Performance Evaluation (SPE) certification, or grandfather provisions;

(I) Any restrictions (e.g., corrective lenses, hearing aid, required to have possession of an exemption letter or SPE certificate while on-duty, etc.); and

(J) Date the medical examiner's certificate information was posted to the CDLIS driver record.

(2) *Status update.* Beginning January 30, 2012, the State must, within 10 calendar days of the driver's medical certification status expiring or a medical variance expiring or being rescinded, update the medical certification status of that driver as "not-certified."

(3) *Variance update.* Beginning January 30, 2012, within 10 calendar days of receiving information from FMCSA regarding issuance or renewal of a medical variance for a driver, the State must update the CDLIS driver record to include the medical variance information provided by FMCSA.

(4) *Downgrade.* (i) Beginning January 30, 2012, if a driver's medical certification or medical variance expires, or

FMCSA notifies the State that a medical variance was removed or rescinded, the State must:

(A) Notify the CDL holder of his or her CDL "not-certified" medical certification status and that the CDL privilege will be removed from the driver license unless the driver submits a current medical certificate and/or medical variance, or changes his or her self-certification to driving only in excepted or intrastate commerce (if permitted by the State);

(B) Initiate established State procedures for downgrading the license. The CDL downgrade must be completed and recorded within 60 days of the driver's medical certification status becoming "not-certified" to operate a CMV.

(ii) Beginning January 30, 2014, if a driver fails to provide the State with the certification contained in § 383.71(a)(1)(ii), or a current medical examiner's certificate if the driver self-certifies according to 383.71(a)(1)(ii)(A) that he or she is operating in non-excepted interstate commerce as required by § 383.71(h), the State must mark that CDLIS driver record as "not-certified" and initiate a CDL downgrade following State procedures in accordance with paragraph (j)(4)(i)(B) of this section.

(5) FMCSA Medical Programs is designated as the keeper of the list of State contacts for receiving medical variance information from FMCSA. Beginning January 30, 2012, States are responsible for insuring their medical variance contact information is always up-to-date with FMCSA's Medical Programs.

[53 FR 27649, July 21, 1988, as amended at 54 FR 40788, Oct. 3, 1989; 67 FR 49760, July 31, 2002; 68 FR 23850, May 5, 2003; 73 FR 73124, Dec. 1, 2008]

§ 383.75 Third party testing.

(a) *Third party tests.* A State may authorize a person (including another State, an employer, a private driver training facility or other private institution, or a department, agency or instrumentality of a local government) to administer the skills tests as specified in subparts G and H of this part, if the following conditions are met: